

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:)	CASE NO. BK09-82412-TJM
)	
NELLIE JANE NASTASE,)	CH. 13
)	
Debtor(s).)	

ORDER

Hearing was held in Omaha, Nebraska, on March 8, 2010, regarding Filing #42, Application for Administrative Expenses, filed by Ford Motor Credit Company, LLC. Trinh Tran appeared for the debtor and Shaun James appeared for Ford Motor Credit Company.

This Chapter 13 case was filed in September of 2009. The debtor was leasing a vehicle from Ford Motor Credit, with monthly payments of \$306.08. The lease ran through early March of 2010.

On the petition date the debtor was apparently delinquent for at least two payments. The original plan, which was not confirmed, assumed the lease obligation and attempted to spread the pre-petition delinquencies over the remaining life of the lease. That apparently was not agreeable to Ford Motor Credit.

The debtor made the post-petition payment through December of 2009, and on January 10, 2010, filed an amended plan rejecting the lease. At that time, according to a motion for relief from the automatic stay filed by Ford Motor Credit on January 19, 2010, the debtor was delinquent on post-petition payments in the amount of \$306.08, or the January payment.

The plan that rejected the lease also notified Ford Motor Credit that the vehicle was surrendered to it. Instead of making arrangements to pick up the vehicle, through contact with counsel, or otherwise, Ford Motor Credit employed the services of legal counsel who filed a motion for relief from the automatic stay and, on the same date, an application for administrative expenses. The application for administrative expenses acknowledged that the debtor was one payment behind. It requested an administrative expense for the sum of \$306.08 plus additional monthly lease payments in the amount of \$306.08 per month if the vehicle was not returned to Ford Motor Credit on or before January 30, 2010.

The evidence is clear that the debtor's January plan provided for rejection of the lease and surrender of the vehicle. The debtor contacted the car dealership where she leased the vehicle and was informed that Ford Motor Credit would be in touch concerning picking up the vehicle. Ford did not make contact with the debtor until repossession of the vehicle in late February 2010.

The evidence presented on behalf of Ford Motor Credit at the hearing on the request for allowance of administrative expense was totally inconsistent with the prior statements made by Ford Motor Credit in the motion for relief from the automatic stay and in the initial application for administrative expenses.

I conclude that Ford Motor Credit should be allowed an administrative expense in the amount of \$306.08, which Ford Motor Credit requested in the first place. I further conclude that the debtor made good-faith efforts to get the vehicle back to Ford Motor Credit prior to January 30,

2010, and is not responsible for attorney fees and filing fees concerning either the application for administrative expenses or the motion for relief from the automatic stay.

IT IS ORDERED that the Application for Administrative Expenses, Filing #42, is granted and Ford Motor Credit Company is allowed an administrative expense in the amount of \$306.08. Any request for further monies is denied.

DATED: March 9, 2010

BY THE COURT:

/s/ Timothy J. Mahoney
United States Bankruptcy Judge

Notice given by the Court to:

Trinh Tran
*Shaun James
Kathleen Laughlin
U.S. Trustee

Movant (*) is responsible for giving notice to other parties if required by rule or statute.